



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 26, 1994

Ms. Margaret E. Barnes
Law Offices of Neiman & Barnes
P.O. Box 777
Lewisville, Texas 75067

OR94-185

Dear Ms. Barnes:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 25516.

The City of Lewisville (the "city"), which you represent, received an open records request for

[a]ll information relating to code violations and/or citations issued by the city to [a named individual], . . . the reasons for those citations, and the payment or nonpayment thereof.

Although you have advised the city's Health and Code Enforcement Department to release most of the requested information, you contend that the city may withhold pursuant to the "informer's privilege," as incorporated into section 552.101 of the Government Code, certain portions of the "Complaint Reports" that tend to reveal the identity of the individuals who reported the alleged ordinance violations to the city.

In *Roviaro v. United States*, 353 U.S. 53, 59 (1957), the United States Supreme Court explained the rationale that underlies the informer's privilege:

What is usually referred to as the informer's privilege is in reality the Government's privilege to withhold from disclosure the identity of persons who furnish information of violations of law to *officers charged with enforcement of that law*. [Citations omitted.] The purpose of the privilege is the furtherance and protection of the public interest in *effective law enforcement*. The privilege

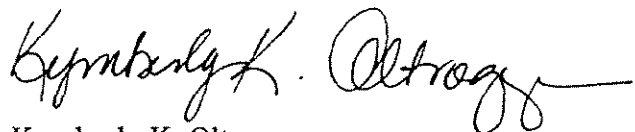
recognizes the obligation of citizens to communicate their knowledge of the commission of crimes *to law-enforcement officials* and, by preserving their anonymity, encourages them to perform that obligation. [Emphasis added.]

Although the privilege ordinarily applies to the efforts of law enforcement agencies, it may apply to administrative officials with a duty of enforcing particular laws. Attorney General Opinion MW-575 (1982) at 2; Open Records Decision Nos. 285 at 1, 279 at 1-2 (1981); *see also* Open Records Decision No. 208 (1978) at 1-2. This may include enforcement of quasi-criminal civil laws. *See* Open Records Decision Nos. 515 (1988) at 3; 391 (1983) at 3.

You contend that "the identity of a person who reported an Ordinance violation, when the violation of the Ordinance was subject to prosecution in municipal court, is exempted from disclosure under the Open Records Act." We agree. *See* Open Records Decision No. 279 at 2 (concluding that informer's privilege applies to identity of person who reports zoning violation, which is class C misdemeanor). Accordingly, assuming that the citizens' complaints constitute reports of violations of laws subject to prosecution in municipal court, the city may withhold the information you have marked as coming under the protection of the informer's privilege.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with an informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Kymerly K. Oltrogge
Assistant Attorney General
Open Government Section

KKO/RWP/rho

Ref.: ID# 25516

Enclosures: Submitted documents

cc: Mr. Gregory Pope
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(w/o enclosures)